

Self Determination Struggle in the Western Sahara Continues to Challenge the UN

By Ian Williams and Stephen Zunes | September 2003

After much wrangling from the French, the UN Security Council unanimously passed resolution 1495 right on the July 31st deadline for the rollover of the MINURSO peacekeeping operation in Western Sahara. In the best diplomatic tradition, the resolution affirmed the commitment to provide for the self-determination of the people of Western Sahara, even while it seriously compromised on it by supporting a peace plan that would allow the Moroccan settlers in the territory to vote on independence in five years. As with Israeli settlers on the West Bank, these Moroccan colonists are there in violation of the Fourth Geneva Convention, which prohibits countries from transferring their civilian population onto territories seized by military force.

The Security Council had fought off a similar plan last year, but this time former U.S. Secretary of State James Baker, UN Secretary General Kofi Annan's special representative, adjusted the plan to provide for a genuine Sahrawi autonomy in the five years before the proposed referendum. This was an ominous sign for the increasingly autocratic rule of King Mohammed in Morocco itself, not to mention leading to uncertainty about the result of the referendum: one fixed principle of Rabat's policy has been never to allow a vote that its principals cannot control.

The Polisario Front and its principal ally Algeria had surprised everyone two weeks earlier by supporting the new plan. It may even be that they supported the plan precisely because they knew Rabat would oppose it. For weaker states, it is sound diplomatic strategy to maneuver your opponents into defying the United States and the rest of the world.

In the longer term, it looks as if Polisario and Algeria have scored a significant diplomatic victory by playing along with Baker's peace proposals and the resolution that was moved by the United States. Morocco's one small victory was that the resolution cited Chapter VI of the UN Charter dealing with the peaceful settlement of disputes, rather than Chapter VII which would have implied mandatory implementation of UN decisions.

Disturbing Principles

In the run up to the vote, France alleged a novel and disturbing principle: the Security Council cannot impose its decisions on parties if they disagree. They claimed there was a tradition of using consensus on Western Sahara, which was a bit like the apocryphal prisoner who had killed his parents and then asked for the court's sympathy because he was an orphan. Any such "tradition" developed in response to constant French and American attempts to railroad a pro-Moroccan position past the other Security Council members in defiance of all previous decisions.

French foreign minister Dominique De Villepin may have made an eloquent case against the legality of the Iraq war, but there is nothing Cartesian about Paris's uncritical support for the King of Morocco. Late last year, France had joined with the United States and Great Britain in attempting to disregard all previous decisions and force through Baker's first draft, which would in effect have legalized the Moroccan occupation against the wishes of the Sahrawi people. As a sort of Solomonic approach, Baker also suggested partition, which the Algerians toyed with, but which all sides eventually rejected—for the time being.

As an Irish diplomat on the Council at the time said, "The original draft was utterly one-sided in its

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approach: it was in violation of international legal principles, and had already been rejected by one party to the dispute. It was also clear that the movers could not muster more than six or seven votes in the Council, so they could not get a majority for it.” He added, “We don’t mind if the Western Sahara becomes part of Morocco—as long as that’s what the Sahrawis want.” In the end, the doubters withstood American, French, and British pressure and stopped adoption of the plan.

This July, Baker returned with a revised version, which was on the face of it, very similar, but he added some crucial safeguards that won Polisario and Algerian support. The degree of autonomy for the five-year interim stage was much stronger, with better international guarantees against Moroccan interference. Only Sahrawis would vote for the interim authority, even if all residents would vote in the final referendum.

The Moroccans did not like these restrictions, and were apparently not even sure that they could count on the settlers to vote with them. So, for the last weeks of July, French diplomats worked hard to avert the revised peace plan, and the King himself called everyone from Tony Blair to George W Bush. Jacques Chirac himself hit the telephones on behalf of his client. However, it did not help much. The King was upset at the reference to self-determination as a ballot option, which was of course absurd. The whole ten-year peace process has been predicated on a vote for or against independence.

Having briefly enlisted Bulgaria, the isolated French delegation eventually compromised and accepted some minor concessions from the Americans in resolution 1495 which “supported strongly” the peace plan put forward by James Baker rather than “endorsed” it as the original wording had it. In fairly typical fashion, Morocco reacted peremptorily to the resolution by saying “We rejected the Baker plan, and are still rejecting it.”

It is easy to wonder what the fuss is all about with the endless acres of sand and sparse population of Western Sahara. However, like East Timor, a problem that also first hit the UN agenda three decades ago, it involves major issues of international law, self-deter-

mination, and respect for UN decisions. It has also cost the UN over half a billion dollars to maintain a force whose job is to supervise a referendum on self-determination that Morocco has delayed for more than a dozen years.

History

In the fall of 1975, in the face of a landmark ruling by the International Court of Justice rejecting Moroccan claims to Western Sahara and categorically ruling that the Sahrawis were entitled to self-determination, Morocco invaded the territory on the verge of its scheduled independence from Spain. Most of the Sahrawi population was forced into refugee camps in neighboring Algeria. While not formally recognizing Morocco’s annexation, the United States had actively encouraged the Spaniards and Moroccans to deny independence to the Sahrawis, who strongly supported the left-leaning independence movement known as the Polisario Front.

In response to the Moroccan invasion, the UN Security Council passed resolutions 379 and 380, which explicitly and unconditionally called on Morocco to withdraw from Western Sahara. However, the French and Americans blocked the Security Council from enforcing these resolutions. According to then-U.S. ambassador to the United Nations Daniel Patrick Moynihan, “The Department of State desired that the United Nations prove utterly ineffective in whatever measures it undertook. The task was given to me, and I carried it forward with no inconsiderable success.”

By 1982, after seven years of war, the Algerian-backed Polisario was on the verge of liberating their country from Moroccan occupation. However, large-scale U.S. and French military aid, including counterinsurgency equipment and training, reversed the tide of the war. Morocco’s allies also helped its occupation forces construct a wall, which eventually separated most of the territory from the exiled Sahrawi population.

With the war at a stalemate, the Moroccans and the Polisario agreed to a cease-fire in 1990, followed by a UN-supervised referendum. The UN set up a peace-keeping operation known as MINURSO to oversee

the plebiscite, where eligible voters among the refugees and the minority of Sahrawis that had stayed in the territory would be determined based on a 1974 Spanish census. However, the Moroccans insisted that anyone who could trace their ancestry to tribal groups with links to the territory should be added to the voter rolls, with the result that twice as many Moroccans as Sahrawis would be allowed to vote. The Polisario understandably rejected such Moroccan demands and the United States and France blocked the Security Council from forcing Morocco to go along with the original plan. As a result, the referendum was never held.

Now, faced with the prospect of being forced to accept a referendum where Moroccan settlers—who now outnumber the indigenous Sahrawis—would be allowed to vote, the Polisario have stolen a march on Morocco by aligning themselves with the United States on the latest resolution. Polisario’s UN representative Ahmed Boukhari candidly admitted that the new offer “was not paradise: it’s a very risky proposal for us,” but it was a pragmatic recognition that the cards were stacked. “We are in the weakest position, so of course, they always want us to compromise, regardless of the law.”

The issue resurfaces again in October, by which time Baker will have done more work, the various parties will do more maneuvering, and more Sahrawis will be born and die in the bleak wastes around their headquarters in the deserts of western Algeria wondering if they will even be given the right of self-determination promised for so long by the international community.

Why the U.S. and France Support the Moroccan Takeover

There are some striking similarities between Morocco’s takeover of Western Sahara and Indonesia’s takeover of East Timor that same year, giving some hope that—as with East Timor—international law and basic principles of justice might win out over realpolitik. Indeed, the Polisario has had far more diplomatic support than the Fretilin ever did, with their Sahrawi Arab Democratic Republic being formally recognized by 75 countries and the SADR sit-

ting as a full member state in the Organization of African Unity.

However, there are two factors working against Sahrawi independence. One is that despite their impressive efforts at building well-functioning democratic institutions in the self-governed refugee camps where the majority of their people live, the Sahrawis have never had the degree of international grassroots solidarity that the East Timorese were able to develop, which eventually eroded support of the Indonesian occupation by Western powers. Secondly, the Moroccan monarchy from the beginning has used its conquest of what it calls “the Sahara provinces” as a means of maintaining its nationalist credentials and popular support despite its autocratic and corrupt rule and the nation’s struggling economy.

The United States has long seen the Moroccan monarchy as a linchpin in advancing Western interests in the region, first as a bulwark against Communist influence and more recently against radical Islam. If Morocco lost the referendum for Western Sahara after pouring in such a tremendous amount of financial resources and lives for the sake of controlling the territory, it could lead to enormous instability and perhaps even the monarchy’s overthrow.

In addition, there is the economic interest in the mineral-rich territory: The Moroccans have just given an exploration contract in the territory to an American oil company, Kerr McGee, which has strong links to Vice President Dick Cheney and the Texas oil gang in the administration, which includes Baker. Of course, one would, in the best spirit of Casablanca, be shocked, shocked, to think that this had anything to do with his or the administration’s public espousal of the Moroccan position. The granting of a concession to TotalFinaElf naturally helped make France’s already strong support even more fervent.

However, Morocco’s case was hindered rather than helped by the contracts. In response, the Security Council asked for a legal opinion from UN Under Secretary General for Legal Affairs, Hans Corell. His low-key report was nevertheless devastating for the Moroccan legal position, reminding council members that Morocco’s occupation was in defiance of rulings

by both the International Court of Justice and the Security Council itself, since no valid act of self-determination has yet to take place.

In Kerr McGee's favor, Corell did determine that exploration contracts were legal—but that exploitation contracts would not be without the support of the people of Western Sahara. There have been successful moves to disinvest from the companies involved. This raises interesting questions for the United States, which is indeed eager for alternative sources of oil outside the Middle East.

After alienating much of the international community for undermining the United Nations' authority and running roughshod over international legal principles in regard to Israel/Palestine and Iraq, the Bush administration may be reluctant to push its luck too far in making it possible for its Moroccan ally to get away

with such an illegitimate territorial aggrandizement. Such moderation in U.S. foreign policy, however, may be possible only if the international community and the American public make it politically difficult for the Bush administration to do otherwise.

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